UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SR.1876
27 October 2000

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Seventieth session

SUMMARY RECORD OF THE 1876th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 20 October 2000, at 10 a.m.

Chairperson: Ms. MEDINA QUIROGA

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Fourth periodic report of Denmark

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.00- 45223 (E)

The meeting was called to order 10.30 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Fourth periodic report of Denmark (CCPR/C/DNK/99/4; CCPR/C/70/DNK)

1. At the invitation of the Chairperson, Mr. Lehmann, Mr. Mikkelsen, Ms. Puggaard, Mr. Skibsted, Mr. Isenbecker, Ms. Urth, Ms. Andersen and Mr. Olsen (Denmark) took places at the Committee table.

2. The CHAIRPERSON invited the head of the delegation to address the Committee.

3. Mr. LEHMANN (Denmark) expressed his Government's appreciation of the work of the Committee. Denmark had always considered it essential that monitoring bodies should be established under the various human rights treaties in order to ensure that the provisions of those treaties were complied with in practice. It saw the Covenant not as a static legal instrument, but rather as a dynamic body of law which developed over time and should be interpreted in the light of changing circumstances.

4. His country's report and the Committee's observations upon it were widely disseminated in Denmark, not only to Parliament but also to NGOs and to the public at large via the Internet and the Web site of the Ministry of Foreign Affairs. Denmark would continue to cooperate with the Committee in a constructive spirit as it had done in the past.

5. The CHAIRPERSON invited the Danish delegation to reply to the list of issues (CCPR/C/70/L/DNK), which read:

"Follow up

1. Have the claims of members of Greenland's Inuit population in respect of their displacement been finally resolved? (See para. 15 of the concluding observations of the Committee on the third report.)

2. The fourth report reaffirms that the Covenant has not been incorpo.ated into Danish law. Are there any rights protected by the Covenant that are not in fact protected by Danish law (paras. 10, 14)? Has the Covenant been cited by the courts of Denmark or by the Parliamentary Ombudsman (paras. 52-55)?

3. Has the question of withdrawal of reservations been considered by the Parliament since the submission of the fourth report (paras. 130, 164, 202)?

Gender discrimination and human rights of women (arts. 3, 26)

4. Have there been further steps to eliminate or reduce gender discrimination, and to enhance women's rights and equality, particularly in regard to the following:

- The levels of participation of women in academia and in management positions (Are there relevant recent statistics?);

- Temporary "special measures" to hasten gender equality;

- The perseverance of attitudes and behaviour that keep women away from decision-making positions (para. 57), or keep men from assuming an equal share of family responsibilities, including taking advantage of the new amendment giving fathers additional weeks of parental leave (para. 59);

- Cultural and gender-sensitive measures and programmes for immigrant and refugee women to enable them to benefit from legal and social services;

5. Are there specific laws on violence against women, in public or in the home?

Criminal law enforcement; police misbehaviour (arts. 9, 10, 14)

6. Is Denmark developing a system of bail in order to comply with article 9, paragraph 3, of the Covenant?

7. The Committee notes the legislation to reduce time in solitary confinement that may be imposed on prisoners awaiting trial, or during trial (paras. 97-101). Are permissible periods of solitary confinement the same for convicted persons?

8. The fourth report states that the new police complaints system is being evaluated (paras. 82, 84). Have any changes been put into effect?

Rights of aliens (arts. 12, 13, 17, 23, 26)

9. The report refers to several amendments to the Aliens Act relating to the residence of aliens, and to family reunification (paras. 219, 220). Is the policy of relocation of aliens with Denmark, referred to in paragraph 36, consistent with article 12 of the Covenant?

The report also indicates amendments to the Aliens Act that extend the right of the State to take fingerprints and photographs (paras. 182-186) for use in respect of claims to asylum, and to use DNA testing in respect of claims to family reunification (para. 188). Are these practices for these purposes compatible with article 17 of the Covenant?

10. According to paragraph 160, "the right to review of a decision on expulsion by judgement is limited to one review". In the case of a decision of administrative expulsion, there is appeal to the Ministry, but the alien may bring it to the court in some cases (para. 161). Is the scope of judicial review the same in regard to "expulsion by judgement" as to "administrative expulsion"? Does appeal of an expulsion decision have suspensive effect in both cases?

11. What are the qualifications for naturalization under Danish law? Are there any distinctions among aliens with regard to eligibility and qualifications for naturalization? Can naturalized citizens be deprived of their citizenship and if so on what grounds? Is the denial or revocation of naturalization governed by law or by administrative decisions only? Are they subject to judicial review?

Discrimination among foreign nationals (arts. 3, 26)

12. How does Denmark accommodate its obligations under the European Union and the special rights accorded to nationals of EU member States, with its obligation of non-discrimination under the Covenant? What is the position of Denmark on this subject in the preparation of the EU Charter of Fundamental Rights?

Self-determination, minority rights, indigenous peoples (arts. 1, 27)

13. What is the current state as to the right of self-determination in respect of the Faeroe Islands and Greenland?

14. Has the Government taken steps to secure the viability of the Inuits' traditional way of life in Greenland, and how is it addressing the social exclusion of the Inuits within Denmark?

Publication and education about the Covenant (art. 2)

15. Please provide further information on education and training about the Covenant and its Optional Protocols that are provided to public officials, in particular to schoolteachers, judges, lawyers and police officials (paras. 23 et seq., paras. 48-51)?

16. What steps were taken to publicize the concluding observations of the Committee after its examination of the third report, and to provide information about the fourth report?

What steps will be taken to publicize the concluding observations of the Committee after its examination of the fourth report?

17. How are the inhabitants of Greenland and of the Faeroe Islands informed about the Covenant, about their rights under the Covenant, and about the functions and responsibilities of the Human Rights Committee (para. 7)?"

6. Mr. LEHMANN (Denmark), replying to question 1, said the claims of the Inuit population had not yet been finally resolved. Under a High Court decision handed down in August 1999, the Government had been ordered to pay compensation for lost hunting rights to the plaintiffs as a group, and also to pay indemnification to each of the plaintiffs affected by the transfer. While the State had accepted that judgement, the plaintiffs had decided to appeal against it, and a final ruling by the Supreme Court was expected some time the following year.

7. Ms. PUGGAARD (Denmark), in reply to question 2, said the rights protected by the Covenant were already protected under Danish law, and it was the Government's view that incorporation would not improve the situation for the individual. However, in July 1999 the Government had set up a committee of human rights experts to examine the advantages and disadvantages of incorporating all human rights instruments, including the Covenant, into Danish law. The committee was expected to complete its work by spring 2001.

8. Hitherto, there had been only one instance of the Covenant being cited in a court judgement: in that case, the reference had been to article 19.2. However, other human rights instruments, notably the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child and ILO Conventions Nos. 87 and 98, had been cited on a number of occasions. There were no instances of the Covenant being cited in decisions of the Ombudsman, but those decisions had made reference to other human rights instruments. She pointed out that the absence of a mention of the Covenant in a judgement did not exclude the possibility that the Covenant might have been relevant to the case.

9. Mr. MIKKELSEN (Denmark), replying to question 3, said that Denmark was not in a position to withdraw its reservation to article 10.3 since Danish criminal policy was still based on the principle of "dilution". Every child deprived of liberty must be separated from adults unless such separation was not considered to be in the child's best interests. The child had the right to maintain contact with his or her family through correspondence and visits. Very few juveniles were in fact sent to prison: in 1999, the average number of prisoners between 15 and 17 years of age on any one day had been 12.

10. A juvenile awaiting trial was usually placed in a social institution rather than a prison, unless he had committed a very serious crime. Juveniles awaiting trial not placed in a social institution would normally be placed in a local prison, where there would be little likelihood of contact with other inmates. Those who for security reasons had to be placed in a closed prison were sent to a special prison reserved for young men and women up to the age of 23.

11. Until January 1999, all juveniles not placed in suitable homes or special institutions had been placed in special units in an open prison, separate from adults. However, to prevent such young offenders becoming isolated, it had been decided to close the special units and to let juveniles serve their sentences together with adults, provided that that was in their best interests. Prisons were required to provide individual treatment programmes for young offenders.

12. Concerning the reservation to article 14.5, he said that under the present jury system the adjudication of a defendant's guilt by a High Court as the first instance could not be reviewed by the Supreme Court. In criminal proceedings, the Supreme Court could only decide on the

sentence, questions of law and any procedural errors during the trial: it could not review the assessment of the evidence. However, it had recently been proposed that in future, jury cases should be heard by district courts in the first instance, and that sentences should be decided jointly by judges and jurors. Appeal against the judgement would lie with the High Court, which could adjudicate both on the verdict and on the sentence. It had been decided to await a decision on the future structure of the court system in Denmark before implementing that proposal. Even though new legislation was being introduced to change the rules governing jury cases, there would still be a few cases of minor importance where decisions of the district court could not be reviewed by the High Court.

13. Concerning the reservation on article 20.1, his Government still considered that that provision might conflict with the right to freedom of expression provided for under article 19. It therefore maintained the reservation.

14. Ms. ANDERSEN (Denmark), in reply to question 4, said that a roughly equal number of men and women were taking further and higher education courses. Although higher education was gender-segregated, women participated in it in very large numbers. The picture regarding university teaching was somewhat different: although there had been a modest increase in the past 10 years, currently only about 6 per cent of university professors were women. An action plan had been launched to find ways of improving that situation.

15. Special measures were used, for instance, in the organizing of training courses, in order to ensure that men and women could start from the same level. Special measures were also applied in the field of employment in order to curb segregation in the labour market.

16. It should be noted that women were very much to the fore in political life: out of 20 ministers, 9, or 45 per cent, were women. Of those in top management positions, only about per cent were women, but women accounted for 25 per cent of middle-level managers, and numbers were constantly increasing.

17. The reconciliation of working life with family life was made more difficult by the fact that the amount of part-time work available was decreasing. Nevertheless, Denmark had an extensive network of day-care facilities, and mothers who had completed maternity leave were guaranteed a place for their children at a day-care centre. In addition, men were now taking on a greater share of family responsibility.

18. The problem of immigrant and refugee women was of great concern in Denmark. The Equal Status Council had set up a working group to look into the gender aspects of problems affecting ethnic minorities.

19. Mr. MIKKELSEN (Denmark), replying to question 5, said that acts of violence, irrespective of the gender of the victim, were punishable under sections 244-249 of the Criminal Code. In determining the penalty, account was taken of the seriousness of the offence. The Director of Public Prosecutions had recently sent out a circular to all local prosecutors concerning cases of domestic violence, emphasizing that the police had a duty to investigate such cases when it could reasonably be assumed that a criminal offence had been committed, even when the victim was opposed to the investigation.

20. Ms. ANDERSEN (Denmark) said that an inter-ministerial working group had recently been established to seek ways of solving the problem of domestic violence, for example by setting up crisis centres for women.

21. Mr. MIKKELSEN (Denmark), in reply to question 6, said that it was possible for a person to be released on bail in Denmark, but bail was rarely used since it was not considered an appropriate way of ensuring the presence of an accused person. It contravened the principle of equality between rich and poor, and was also considered as unlikely to prevent suspects from escaping before the trial. Other alternatives, such as the confiscation of passports, were preferred.

22. Turning to question 7, he said that no fixed time limits applied to solitary confinement for convicted persons, who could only be placed in solitary confinement for three reasons: to prevent escape, criminal activity or violent behaviour; to permit the carrying out of security measures or health inspections, or to prevent infection; or if the person showed a pattern of inadmissible behaviour. Decisions to impose solitary confinement had to be re-evaluated once a week, and the Department of Prisons had to be notified if it was extended beyond four weeks.

23. Solitary confinement of convicted persons served a very different purpose from solitary confinement of persons in custody awaiting trial. It was imposed primarily for security reasons, and thus to set a time limit would imply that the inmate must be released from such confinement even in situations where that release would jeopardize security.

24. Mr. SKIBSTED (Denmark) said, in reply to question 8, that according to an evaluation carried out by the Ministry of Justice in 1998, there was no need to change the Police Complaints Board scheme introduced in 1996. In 1997 and 1998, an average of 50 complaints per month had been received by district public prosecutors. Those figures seemed to indicate that, after an initial period of dissatisfaction following the introduction of the new scheme, the situation had now stabilized. There was a feeling of confidence that the new scheme ensured the necessary legal protection of both the citizens and the police officers involved, and that complaints were dealt with fairly. The only problem highlighted in the report was the time it took to process complaints. The Director of Public Prosecutions was making every effort to speed up such procedures in order to meet the strict time limits laid down by the Ministry of Justice in 1997.

25. Ms. URTH (Denmark), providing information on the housing policy for refugees in response to question 9, said that the overall objective of the Integration Act was to ensure the speediest possible integration of aliens into Danish society, under the most favourable conditions. Before the Act's entry into force, the Danish Refugee Council, which had been responsible for housing refugees, had encountered difficulties owing to the fact that housing had been provided on a voluntary basis and some municipalities had simply refused to accommodate refugees. The housing policy applied to refugees only, since it was presumed that immigrants came to Denmark for family reunification and therefore already had somewhere to live.

26. Each year accommodation needed to be found for around 3,000 refugees. Under the Integration Act, municipalities must find a permanent dwelling for the refugees within a period of three months, and they usually managed to do that, which was a significant improvement on

the previous situation. Since all regions had to share responsibility for hosting refugees, they were dispersed throughout the country. However, that did not run counter to the aims of the Integration Act, namely to cater for the individual needs of refugees in terms of health, education and employment. Housing was allocated on the basis of an agreed quota system and, following the granting of refugee status, the municipality in which the refugee would reside was selected. Such a decision took into account factors including the particular wishes of the refugee, his linguistic and cultural background, family ties or possible contacts with refugees of the same nationality, education and qualifications, employment opportunities and special needs.

27. There was nothing in the Integration Act prohibiting aliens from freely choosing their place of residence. However, since in accordance with the Act aliens took part in an introduction programme which linked them to a given municipality, they must seek the approval of that municipality in order to move to another one. Persons who moved without the prior approval of the municipality initially assigned ran the risk of having their introduction programme allowance reduced or stopped. Although such provisions in some circumstances restricted aliens' freedom of movement, they were justifiable and consistent with article 12 of the Covenant.

28. Mr. ISENBECKER (Denmark) said that one of the purposes of the Aliens Act was to protect persons at risk of persecution in accordance with the Convention relating to the Status of Refugees. In order to combat continuing abuses in the Danish asylum system and ensure the protection of legitimate asylum-seekers, in 1995 and 1997 amendments had been introduced to the Act allowing for the taking, registration and comparison of fingerprints and photos for asylum-seekers. Through their more rapid and safe identification, the procedures were intended to reduce the risk of error in assessing applications and to assist cooperation with the immigration services of other States. They represented very limited interference in the privacy of the persons concerned and were carried out only when necessary. Fingerprints could only be taken by the police and such matters were decided on a case-by-case basis. The persons concerned were always informed in writing beforehand of the purpose of and procedures involved in the exercise, the services of an interpreter being provided as necessary. Such decisions could be appealed to the Ministry of the Interior. Fingerprints could be stored for no longer than 10 years, and only police and immigration officers had access to the fingerprints register.

29. DNA testing for aliens in connection with family reunification was only carried out when no other means of establishing family ties was available (i.e. documentation) and with the consent of the parties concerned. It was therefore fully in keeping with the provisions of article 17 of the Covenant.

30. Turning to question 10, he said that the scope of judicial review was the same with respect to expulsion by court judgement and by administrative decision. Before issuing an expulsion order, both the courts of law and the administrative authorities must ensure that the conditions laid down in sections 22-25 (b) of the Aliens Act were fulfilled. Subsequently it must be decided whether the expulsion would have particularly negative consequences for the persons concerned, for instance separation from close relatives remaining in Denmark. Humanitarian considerations were always taken into account and attempts were made to strike a balance between the needs of the persons concerned and the interests of the State.

31. Expulsion orders were issued by courts following an alien's conviction for a criminal offence. Such decisions could be reviewed at least once and had a suspensive effect. Administrative decisions for expulsion were taken by the Danish Immigration Service and were normally appealed to the Ministry of the Interior. In certain circumstances, such as those specified under section 52 of the Aliens Act, such decisions could be reviewed by the courts. They were also subject to appeal under section 63 of the Danish Constitution.

32. Appeals to the Ministry of the Interior had suspensive effect for aliens who were in possession of a residence permit or citizens of the European Union (EU) and the Nordic countries, provided they were made within seven days of the decision. If the appeal could not be made within that time limit, for reasons beyond the control of the person concerned, the date of expulsion could be postponed. Aliens on tourist visas were required to appeal to the Immigration Service; such appeals did not have a suspensive effect, ostensibly to prevent aliens from prolonging their stay by committing an offence. However, the visa of an alien expelled by administrative decision could be extended if his presence was required for a hearing of the appeal case. In accordance with the Committee's General Comment No. 15, aliens were given full facilities to pursue remedies against expulsion orders. They were entitled to legal representation, and their written or oral statements were always taken into account in reaching the decision.

33. Ms. PUGGAARD (Denmark), replying to question 11, said that in accordance with the Constitution, the naturalization of aliens could only be granted through an act of Parliament and on fulfilment of the following conditions. First, the applicant must be resident in Denmark at the time of application and have completed at least seven years of continuous residence. In the case of stateless persons or refugees that period was reduced to six years, and for citizens of other Nordic countries to two years. Secondly, persons with convictions could not be granted naturalization pending expiry of a given period depending on the gravity of the penalty incurred. Thirdly, persons owing arrears to public authorities could not be granted naturalization unless a repayment scheme was agreed to and complied with. Fourthly, applicants must be able to hold an ordinary conversation without difficulty in Danish, except in the case of those suffering from mental disorders. Fifthly, the present nationality must be renounced, except in the case of refugees or where that was illegally or de facto impossible. Lastly, applicants should have reached the age of majority, although in certain circumstances children could also be naturalized. An information circular on the parliamentary procedures relating to naturalization was available to the Committee for consultation.

34. There was no legal authority responsible for the deprivation of citizenship in Denmark. In theory, it could be effected by Parliament, but there had been no cases in practice. In accordance with sections 7 and 8 of the Nationality Act, any person who acquired another nationality by applying to or entering the public service of another State, as well as any person born abroad who could prove no association with Denmark before the age of 22, was automatically deprived of citizenship, unless it resulted in his statelessness. Since naturalization issues were dealt with by Parliament, they were not subject to judicial review. In November 1997, Denmark had signed the European Convention on Nationality, entering a reservation to article 12 in that connection. It was expected that the Convention would be ratified shortly.

35. Mr. LEHMANN (Denmark) said, in response to question 12 regarding the obligation of non-discrimination under the Covenant, that he had participated in the drafting of the new European Charter of Fundamental Rights and believed that it would be of interest to Committee members to learn some basic facts about that document. The EU had decided to set up a special organ, consisting of the Prime Ministers of each member country, 2 members of the national Parliament of each member country, 16 members of the European Parliament and 1 person from the Commission, to draw up a charter of fundamental human rights to govern the work of its institutions. The body was known as the Convent. On 2 October 2000, the Convent had given its consent for the document that had been prepared to be forwarded to the Council of Europe, so that the summit meeting to be held in Nice in December 2000 could take a stand on it.

36. The content of the document was very similar to the Council of Europe's Convention on Human Rights and the Covenant itself. Its structure, however, was innovative. It started with a chapter on human dignity and the various rights which followed from it. Then came a chapter on freedoms, enumerating such rights as the right to liberty and security, freedom of assembly and so on, already familiar from the Covenant. Chapter 3, on equality, covered such topics as equality before the law, non-discrimination, cultural diversity, gender equality, the rights of older persons and so forth. Chapter 4, on solidarity, enumerated various economic, social and cultural rights. He noted in that connection that the United Nations Committee on Economic, Social and Cultural Rights had approached the Convent in some anxiety lest the new charter should distinguish between the two sets of rights by placing civil and political rights on a higher plane, thus running counter to the United Nations position that they were on an equal footing. Chapter 5, on citizens' rights, was what had given rise to the Committee's question. He emphasized that the chapter applied only to EU citizens. The specific rights which did not apply to other persons included the right to vote and to stand as a candidate in municipal elections within the EU, to stand for the European Parliament, to address the European Ombudsman, to have access to European Community documents, to petition the European Parliament, and so on. Those rights appertained to any person who was a citizen of one of the EU member States. He did not believe that it constituted discrimination within the meaning of article 26 of the Covenant.

37. Chapter 6 of the draft charter concerned justice, in the shape of the right to a fair trial, the presumption of innocence and other legal rights set out in the Covenant. An important final Chapter 7 on general provisions gave some explanation of the rights that were guaranteed. The document was presented to the summit meeting as a declaration and not as a legally binding instrument, though it might eventually become one. In answer to the precise question put in paragraph 12, he would re-emphasize that the chapter on citizens' rights in the draft charter was not discriminatory in the context of article 26.

38. Mr. OLSEN (Denmark), speaking as a representative of the Home Rule Government of Greenland, said, in response to question 13 regarding the right of self-determination in respect of Greenland, that after 20 years of home rule the Government had decided to take up the revision of the Home Rule Act. A commission had been appointed, therefore, to study the possibilities of expanding Greenland autonomy within the Kingdom of Denmark on the basis of the principle of conformity between rights and responsibilities. The commission was to describe the current position of home rule in regard to constitutional law, including questions of jurisdiction and delegation between the Danish and Home Rule Governments. It was also to identify and

describe other arrangements that would better satisfy Greenland's aspirations to self-government within the Kingdom. It was to explore possibilities for expanding Greenland's authority, role and ability to act in the area of security policy, from the standpoint of its geographical situation, and to consider how Greenland's interests could best be safeguarded. It was to define those areas in which the Home Rule Government had taken over jurisdiction, those in which jurisdiction was retained by the Central Government and those in which jurisdiction was shared in various ways between the Home Rule and Central Governments. In that context, it would consider the possibility of the transfer to Greenland, in whole or in part, of the judicial system, in the light of the report to be tabled by the Greenland commission on the administration of justice.

39. The commission would also put forward proposals for moving Greenland further in the direction of economic self-sufficiency. It would consider the need and feasibility of transferring other areas of responsibility to home rule and explore the related advantages and disadvantages. It would also assess possibilities for Greenlandic participation in the assertion of sovereignty and in fisheries inspection. It would then put forward proposals for amending the Home Rule Act, the existing enabling legislation and the amendments to the administrative and framework agreements between the Danish and Home Rule Governments in all those areas of concern. The commission was expected to complete its work in 2002.

40. Mr. LEHMANN (Denmark) regretted that the delegation could not include any representative of the Home Rule Government of the Faeroe Islands because all sections of government there were busy preparing for negotiations on obtaining full sovereignty for the Faeroes. He would proceed, therefore, to the matters raised in question 14. As far as the viability of the Inuits' traditional way of life in Greenland was concerned, the home rule authorities had assumed competence to regulate all its basic aspects, including access to hunting, fisheries, trade and so on, for Greenland as a whole. As to the situation of Inuits in Denmark, he would note first that any person born in Greenland was by that fact also a citizen of Denmark and entitled to reside there and to enjoy all Danish civil rights and social services without discrimination. Socially disadvantaged Greenlanders residing in Denmark were given special assistance by the Danish Ministry of Social Affairs, which ran a major institution for Greenlanders - a school for disadvantaged pupils. In addition, the Home Rule Government itself administered the so-called Greenlandic Houses in Denmark. Four of those Houses were in place in the various regions and were supported by the regional municipalities. They provided advice and assistance to Greenlanders who were permanent residents of Denmark, such as interpretation where necessary, and special rehabilitation services for those who needed them.

41. Mr. OLSEN (Denmark) said that there were about 11,000 Greenlanders living in Denmark, the vast majority of whom were well integrated into Danish society through family and educational ties. There was also a group with special needs, for reasons such as drug or alcohol abuse or homelessness, and they were assisted through the Danish social authorities and the Greenlandic Houses. There were a number of special projects for dealing with the particular problems suffered by some of those persons, with a view to integrating them more fully into Danish society.

42. Mr. SKIBSTED (Denmark) said, in response to question 15, that human rights issues were increasingly being taken up in the education system, from primary schools to institutions of higher learning. Partly because of the decentralized system of national education, it was difficult

to provide any concise information on the precise extent of teacher training programmes. In general, however, all such programmes attached importance to human rights, particularly in the context of the United Nations Decade for Human Rights. Regarding police training, he said that the Danish Centre for Human Rights and the National Police College had worked with the Council of Europe to produce a video on the consequences of human rights for policing in general. The Council of Europe booklet, "Human Rights and the Police", had been brought out in Danish and was to be included in the Police College training programme. Denmark had provided professional and financial assistance to the Council of Europe's working group on policing in a democratic society, and as from August 2000 the Police College had reorganized its compulsory further training programme, with human rights issues receiving a more prominent position.

43. The CHAIRPERSON thanked the members of the Danish delegation for their full and precise answers to the Committee's questions. She invited the members of the Committee to put any further questions they might have to the delegation.

44. Mr. HENKIN welcomed the opportunity for a dialogue with the Danish delegation. He had been pleased to see that Denmark's good human rights record was continuing. He understood that Denmark was interested in joining in the effort to coordinate the activities of the various treaty bodies. It could be of great help in that connection, possibly by assuming some responsibility for the implementation of human rights by other Governments. He noted that no one had yet made use of article 41 of the Covenant. The various treaty bodies were thinking about that and Danish participation would be very useful. He had been particularly gratified by the forthcoming attitude displayed by the Danish delegation in its replies. He had, however, a few follow-up questions.

45. First, why had the question of compensation to the Inuits not yet been resolved and what had impelled them to appeal to a higher court? What were the grounds of their appeal and were they receiving any legal aid in that connection? Did the Government in fact regard solitary confinement as consistent with the respect for human dignity demanded by article 10.1 of the Covenant? Were the terms of solitary confinement being reconsidered? He would also like more information about local prison conditions, in connection with which the Committee had received complaints that there was too little privacy. On the detention of asylum-seekers, he asked whether such detention was necessary and whether it was proportional. That was of course a matter of judgement, and the Government and detainees could have different perspectives on it. He would like to know whether the full legal facilities mentioned in regard to immigration and asylum-seeking included legal assistance for persons unable to pay for it. In conclusion, he noted that there were some points in regard to gender discrimination on which further information would be valuable: for instance, adoptions by unmarried women and reports from various quarters of a growing traffic in women, using Denmark as a conduit.

46. Mr. SOLARI YRIGOYEN congratulated the Danish delegation on its presentation of a detailed report prepared in full accordance with the Committee's guidelines and on its responses to the Committee's list of issues. The report, taken together with the replies had given the Committee a valuable overview of the position in Denmark regarding the implementation of the Covenant. He had taken note of the legislative and other reforms described and particularly welcomed the efforts currently being made to enhance police training in respect for all human

rights. He was however concerned, however, that Denmark intended to maintain its reservations to certain articles of the Covenant, which he felt made it less effective in that country. He also regretted that the Covenant had not yet been directly integrated into Danish legislation and hoped that the committee referred to in paragraph 11 of the report would be set up soon and would conclude that a general human rights convention, including the Covenant, should be incorporated into Danish law.

47. He had a few further questions for the delegation. First, he would like to know the result of the 1998 Act on Integration of Aliens in Denmark and also whether, since that date, there had been any increase or decrease in the activities of the Ombudsman. He would also like to know the result of the action programme to reduce abortions referred to in paragraph 64 of the report. With regard to the situation in Greenland, he noted that a special commission had been established in 1994 to carry out a thorough revision of Greenland's judicial system, including the police, the courts and the prison and probation services. The commission had now been working for five years, and he would like to know whether any preliminary conclusions had been reached and any action taken to implement them. The Committee had been told that the home rule authorities in Greenland had asked to be given gradual control over 16 specified sectors. Had control over those sectors now been transferred and, if so, what was the result?

48. The Committee had been treated to a very clear report on gender equality by Ms. Andersen and very few questions remained to be asked in that connection. He would, however, like more information on the position in regard to gender equality among ethnic minorities and refugees. He also asked whether there were minorities other than the German minority referred to. If so, were those other minorities recognized by the Government and did they all enjoy equal rights with regard to establishing schools and receiving government subsidies. On the question of religious freedom, he asked whether the Lutheran Evangelical Church, being the official church of the State, was treated any differently from other churches. He would also like more information on asylum-seekers, particularly how many applications for asylum had been accepted and rejected since the previous report. The Committee had been told that a genuine effort was being made to shorten the time taken to process complaints against the police. He would like to know how much time it took, on average, to process a complaint.

49. Mr. KLEIN thanked the delegation for its comprehensive replies to the questions and for its informative periodic report, which had been submitted in time and carefully reflected the Committee's concluding observations on Denmark's previous report. However, he was struck by the fact that it contained very little if any reference to how existing legislation was applied by the courts.

50. It was true that States parties were not strictly required to incorporate the Covenant in domestic legislation but he took issue with the statement that the Danish people would derive no benefit from its incorporation. Although there was doubtless a parallel system of basic rights protection in Denmark, it did not accurately reflect the provisions of the Covenant. There was a difference between applying Covenant provisions by means of the interpretation of domestic rules and invoking them directly before domestic courts.

51. With regard to citizens' rights under the European Charter of Fundamental Rights, he agreed that there was an argument for reserving election rights for EU citizens, but the same could not be said of the right to petition the Ombudsman since all residents were subject to the rulings and authority of EU institutions in the realm of Union legislation.

52. According to paragraph 64 of the report, 18,135 legal abortions had been carried out in 1996. He wondered whether the delegation could provide a rough estimate of the number of illegal abortions conducted. Was there any indication of women's chief motives for resorting to a legal abortion such as social, psychological or other factors? Given the availability of diverse means of contraception and the high level of education of the Danish population, he was somewhat surprised that the figure was so high. Had the action programme to reduce the number of abortions proved effective?

53. With regard to the prohibition of direct and indirect discrimination, he referred to Act No. 626 of September 1987 concerning the prohibition of discrimination and a paper entitled "Copenhagen police relations with ethnic minorities" submitted as annex F to the report. The paper mentioned that where a person was barred from access to a restaurant or discotheque because of race or ethnic origin, the police would note the identity of the perpetrator of such action. He asked whether the police could then lawfully demand that the person be admitted to the premises and what would happen if the owner claimed that he or she had been barred on other grounds? How could the facts be determined and investigated? Were there any figures to indicate how many cases had been resolved to the satisfaction of the complainant? In the delegation's view, were the existing anti-discrimination laws in Denmark adequate in terms of the new EU anti-discrimination directive or would they have to be amended?

54. It seemed from paragraph 37 of the report that the Act on Integration of Aliens in Denmark shifted responsibility for integration to the local authorities, especially in the area of housing. Given that local authorities were often less well off financially, he wondered whether the shift might have had an adverse impact on integration policy.

55. According to paragraph 115, in cases where there was a strong presumption that an application for asylum was manifestly unfounded, a person could be deprived of liberty for not more than seven days while his or her case was being examined. He wished to know whether decisions regarding deprivation of liberty or less intrusive measures such as deposit of the alien's passport or daily reporting to the police were taken by the executive authority, the police or a judge.

56. Ms. GAITAN DE POMBO welcomed Denmark's ongoing dialogue with the Committee and commended the Government's plan to ensure that the Committee's observations and recommendations were widely disseminated not only among State bodies but throughout society. The report mentioned in paragraph 101 a bill that was to have been introduced in the Danish Parliament in January 1999 to address the issue of custody on remand and solitary confinement. Had the bill been adopted and in what way had it changed the former regime? She also wished to know whether there had been any changes in the rules governing deprivation of liberty for psychiatric reasons since the submission of Denmark's third periodic report.

57. She asked whether specific programmes had been implemented to address the problem of violence against women, especially in the family, through both preventive and punitive measures. If so, which bodies were responsible for implementing the programmes and had any positive results been achieved?

58. She shared Mr. Klein's concern about the high figures for abortion in an educationally advanced society. Could the delegation offer any explanation for the phenomenon and describe the measures that were being taken to reduce the abortion rate? She also shared Mr. Solari Yrigoyen's concern about Denmark's policy on asylum-seekers and would appreciate further information regarding State action to guarantee their rights.

59. Mr. YALDEN thanked the delegation for an extremely thorough report and for its concise and informative answers.

60. With regard to discrimination, he wished to focus on the monitoring and enforcement agencies whose job it was to ensure that the existing legislation was respected. The Parliamentary Ombudsman clearly had no power to enforce his recommendations. According to the core document (HRI/CORE/1/Add.58), protection against discrimination at work was left to the parties in the labour market and the Equal Status Council had no power to sanction discrimination. And according to the fourth periodic report, the Board for Ethnic Equality did not deal with specific cases. He therefore wished to know what institution, other than the courts, possessed the kind of authority that would enable it effectively to order remedies for human rights violations and, in particular, discrimination.

61. One of the requirements for naturalization was seven years' residence or, in the case of citizens of Scandinavian countries, only two years. How could that be squared with article 26 concerning equality before the law irrespective of national origin?

62. DNA testing in connection with family reunification was said to be voluntary and only necessary when there was no other way of determining the family tie. But paragraph 188 also stated that any refusal to cooperate in a DNA examination might be detrimental to the applicant. Moreover, "no other way" might be interpreted by officials as meaning that the documentation presented was unsatisfactory.

63. The Evangelical Lutheran Church was the established church and as such received support from the State. He asked whether religious-based schools existed and, if so, whether those based on the established church were given special treatment.

64. Mr. SCHEININ thanked the delegation for a focused report addressing the Committee's concluding observations on the previous report and recent developments in Denmark.

65. It was argued in paragraph 10 of the report that "any" incorporation of the Covenant into domestic law would not result in better legal protection for the individual. But there were different forms of incorporation. In Norway, for example, incorporation included a clause giving the Covenant priority over other normative enactments. In Sweden, the incorporation of the

European Convention on Human Rights had been coupled with an amendment of the Constitution which authorized courts, as part of their review of constitutionality of acts of Parliament, to assess their compatibility with the European Convention. In Finland, incorporation had led to many cases of invocation of both the European Convention and the Covenant in the courts. The Covenant went further than the Convention in some areas such as those covered by articles 25, 26 and 27 and part of article 14, whose provisions had been cited most frequently before the Finnish Supreme Court. He wished to know whether Denmark had taken into account the experience of other countries in the region when considering the form in which the Covenant might be incorporated in domestic law.

66. With regard to the European Charter of Fundamental Rights, he was concerned that article 21, paragraph 2, prohibited discrimination on grounds of nationality only in the case of nationals of another EU member State. That provision seemed to be out of line with the process of broadening article 14 of the European Convention on Human Rights to bring it into harmony with article 26 of the Covenant. Did the Danish Government consider that article 21 of the Charter was consistent with article 26 of the Covenant?

67. Paragraphs 152 and 220 of the report and the delegation's oral responses to questions concerning the treatment of aliens took the Convention relating to the Status of Refugees as the basis for non-refoulement. He asked whether the Aliens Act included a comprehensive clause of non-refoulement in all cases of inhuman or degrading treatment or whether there had to be a connection with the Convention. Not all cases of non-refoulement led to the issue of a residence permit. There seemed to be a category of semi-legal aliens or "tolerated residents". He wished to know whether such a category existed and, if so, whether there was any connection between that situation and his point concerning the Convention relating to the Status of Refugees.

68. With regard to DNA testing, he inquired about the situation of persons whose family link was more distant than that between a child and his or her biological father and mother. There were many societies in which the social family was important, especially in cases of armed conflict where both parents were dead and a child was raised in a different environment.

69. He inquired about the approach of the Danish Government to the possible sovereignty of the Faeroe Islands. Did it envisage a transitional period during which it would continue to provide economic support if the Islands opted for full sovereignty?

70. What was the Government's view of the link between home rule for Greenland and the preservation of the Inuit culture and way of life? Some institutions had been inherited from colonial rule, so that home rule might become an instrument for both self-government and assimilation. For example, section 8 of the Home Rule Act apportioned competence in respect of sub-surface rights. Both the Home Rule and central government authorities had a say but there was also a clause to the effect that the decisions of both must be based on the well-being of everyone within the Danish State. The home-rule arrangement was therefore not based on ethnic criteria. He was not suggesting that ethnic discrimination existed but simply wondered whether sufficient attention was being paid to cultural preservation.

71. Legal aid had important implications for the land rights of indigenous peoples since legal costs might have a prohibitive effect on possible claims. Was there an arrangement whereby an administrative authority had a say in how indigenous applicants formulated their claim by restricting the amount of legal aid available? The Danish system of court fees was based on the amount of the claim and that might also have a prohibitive effect.

72. There had been a public discussion in Denmark of the question of whether Muslim communities should be authorized to establish cemeteries. Did the Government recognize that it had an obligation to find a solution to the issue?

73. Ms. EVATT thanked the delegation for the comprehensive report dealing with issues about which the Committee had expressed concern. Referring to the claim by the Inuit people of Greenland that their unjust resettlement in the 1950s had affected the enjoyment of their culture, she asked for more information about the nature and content of the apology made by the Prime Minister after the relevant court decision. Was Denmark considering following the example of other States in which indigenous people had been displaced and which now acknowledged that people who lived by hunting, fishing or similar means had strong interests, as part of their culture, in the use and care of their land which should be recognized as community ownership interests?

74. She shared Mr. Henkin's concern about trafficking in women, which was apparently a growing problem in Denmark as elsewhere. Had there been official investigations to determine the source of the problem and to identify ways of ending such trafficking?

75. She sought confirmation of the fact that police dogs were no longer used for crowd control.

76. She understood that there were new laws in force that made it a crime to cover one's face, even with paint, at a meeting or assembly in a public place. How did the authorities propose to distinguish between innocent and criminal covering of the face?

77. She shared Mr. Henkin's concern regarding solitary confinement and noted that no maximum period seemed to have been set. What steps were taken to assess and alleviate the impact of such confinement on mental health?

78. She was concerned about the possible discriminatory effect of Act No. 929 of 1991, under which unemployed people were required to accept public-sector employment for up to three years at wages lower than those paid to other public-sector employees.

The meeting rose at 1 p.m.